

1 HONORABLE RICHARD A. JONES  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 STEVEN M. MCCLAM II,

11 Plaintiff,

Case No. C19-96-RAJ-MLP

12 v.

ORDER

13 FRANZ VERHELST et al.,

14 Defendants.

15 This matter is before the Court on Plaintiff's motion for an extension of time to  
16 respond to the Honorable Michelle L. Peterson's Report & Recommendation ("R&R")  
17 (Dkt. # 60). Dkt. # 64. Defendants oppose this motion. Dkt. # 66.

18 Plaintiff filed his first motion to extend time to respond to the R&R on August 6,  
19 2020. Dkt. # 61. The Court granted Plaintiff's pro se motion and extended the deadline  
20 to file objections to the R&R to September 21, 2020. Plaintiff contacted attorney  
21 Michael Kahrs seeking representation in late August. *Id.* Mr. Kahrs noted that, at the  
22 time, he was "unavailable." *Id.* On September 9, 2020, Mr. Kahrs agreed to represent  
23 Plaintiff on a pro bono basis only if he could get a stipulated extension of time from  
24 opposing counsel. *Id.* at 2. Mr. Kahrs noted that he sent an email to opposing counsel  
25 but did not receive a response. *Id.* Defendants do not refute this statement. On  
26 September 22, 2020, Plaintiff contacted Mr. Kahrs, who agreed to file a Notice of  
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28 ORDER – 1

1 Appearance and Motion for Extension of Time, even though he had been unable to obtain  
2 a stipulated extension of time. *Id.*

3 A court may, for good cause, extend time on a motion made after the time has  
4 expired if the party failed to act because of excusable neglect. Fed. R. Civ. P. 6(b)(1)(B).  
5 A trial court has “wide discretion” in excusing a delay. *Pincay v. Andrews*, 389 F.3d 853,  
6 859 (9th Cir. 2004). The analysis surrounding a party’s untimely filing is “an equitable  
7 one, taking account of all relevant circumstances surrounding the party’s omission.”  
8 *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 395 (1993). The  
9 *Pioneer* Court set forth four factors for a trial court to consider: (1) the danger of  
10 prejudice to the non-moving party, (2) the length of delay and its impact on judicial  
11 proceedings, (3) the reason for the delay, including whether it was within the reasonable  
12 control of the movant, and (4) whether the moving party acted in good faith. *Id.*

13 Here, Plaintiff filed a request for an extension one day past the deadline. The  
14 length of this delay is short. There is no prejudice to Defendants, and while the reason  
15 for delay is unclear, there is no evidence of bad faith. The *Pioneer* factors, therefore, do  
16 not militate against granting Plaintiff a limited extension to file objections. However, an  
17 extension of 60 days is unnecessarily long, particularly given that a party is usually  
18 permitted 21 days to respond to an R&R. In the interest of fairness, the Court will grant  
19 an extension of 30 days for Plaintiff to file his objections to the R&R. The Court hereby  
20 **GRANTS** Plaintiff an extension of 30 days from the date of this Order to respond to the  
21 R&R (Dkt. # 60).

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23 DATED this 7th day of October, 2020.

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The Honorable Richard A. Jones  
United States District Judge